

SENATE BILL No. 218

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-25.

Synopsis: Tax sale procedures. Permits the issuance of a tax deed only if notice of the tax sale is given to the owner of record by certified mail, return receipt requested. Requires service of the notice by the sheriff if the mailing is returned undelivered, or by publication if the sheriff is unable to serve the notice.

Effective: July 1, 2007.

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January 8, 2007, read first time and referred to Committee on Local Government and Elections.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 218

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-25-4.5, AS AMENDED BY P.L.169-2006,
2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 4.5. (a) Except as provided in subsection (d), a
4 purchaser or the purchaser's assignee is entitled to a tax deed to the
5 property that was sold only if:
6 (1) the redemption period specified in section 4(a)(1) of this
7 chapter has expired;
8 (2) the property has not been redeemed within the period of
9 redemption specified in section 4(a) of this chapter; and
10 (3) not later than nine (9) months after the date of the sale:
11 (A) the purchaser or the purchaser's assignee; or
12 (B) in a county where the county auditor and county treasurer
13 have an agreement under section 4.7 of this chapter, the
14 county auditor;
15 gives notice of the sale to the owner of record at the time of the
16 sale and any person with a substantial property interest of public
17 record in the tract or real property.



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(b) A county executive is entitled to a tax deed to property on which the county executive acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:

(1) the redemption period specified in section 4(b) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and

(3) not later than ninety (90) days after the date the county executive acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:

(A) the owner of record at the time the lien was acquired; and

(B) any person with a substantial property interest of public record in the tract or real property.

(c) A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:

(1) the redemption period specified in section 4(c) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and

(3) not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or real property.

(d) The person required to give the notice under subsection (a), (b), or (c) shall give the notice by sending a copy of the notice by certified mail, to:

(1) **subject to subsection (k)**, the owner of record at the time of the:

(A) sale of the property;

(B) acquisition of the lien on the property under IC 6-1.1-24-6; or

(C) sale of the certificate of sale on the property under IC 6-1.1-24;

at the last address of the owner for the property, as indicated in the records of the county auditor; and

(2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property

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1 interest of public record is not indicated in the public record that
 2 created the interest and cannot be located by ordinary means by the
 3 person required to give the notice under subsection (a), (b), or (c), the
 4 person may give notice by publication ~~in accordance with~~ **in the same**
 5 **manner that a county officer is required to give a notice affecting**
 6 **the county under IC 5-3-1-4** once each week for three (3) consecutive
 7 weeks.

8 (e) The notice that this section requires shall contain at least the
 9 following:

10 (1) A statement that a petition for a tax deed will be filed on or
 11 after a specified date.

12 (2) The date on or after which the petitioner intends to petition for
 13 a tax deed to be issued.

14 (3) A description of the tract or real property shown on the
 15 certificate of sale.

16 (4) The date the tract or real property was sold at a tax sale.

17 (5) The name of the:

18 (A) purchaser or purchaser's assignee;

19 (B) county executive that acquired the lien on the property
 20 under IC 6-1.1-24-6; or

21 (C) person that purchased the certificate of sale on the
 22 property under IC 6-1.1-24.

23 (6) A statement that any person may redeem the tract or real
 24 property.

25 (7) The components of the amount required to redeem the tract or
 26 real property.

27 (8) A statement that an entity identified in subdivision (5) is
 28 entitled to reimbursement for additional taxes or special
 29 assessments on the tract or real property that were paid by the
 30 entity subsequent to the tax sale, lien acquisition, or purchase of
 31 the certificate of sale, and before redemption, plus interest.

32 (9) A statement that the tract or real property has not been
 33 redeemed.

34 (10) A statement that an entity identified in subdivision (5) is
 35 entitled to receive a deed for the tract or real property if it is not
 36 redeemed before the expiration of the period of redemption
 37 specified in section 4 of this chapter.

38 (11) A statement that an entity identified in subdivision (5) is
 39 entitled to reimbursement for costs described in section 2(e) of
 40 this chapter.

41 (12) The date of expiration of the period of redemption specified
 42 in section 4 of this chapter.

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(13) A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.

(14) The street address, if any, or a common description of the tract or real property.

(15) The key number or parcel number of the tract or real property.

(f) The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

(g) A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

(h) **Except as provided in subsection (k)**, the notice required by this section is considered sufficient if the notice is mailed to the address required under subsection (d).

(i) The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(j) If the purchaser fails to:

(1) comply with subsection (c)(3); or

(2) petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;

the certificate of sale reverts to the county executive and may be retained by the county executive or sold under IC 6-1.1-24-6.1.

(k) A mailing under subsection (d)(1) must be made return receipt requested. If the notice is returned undelivered, the person required to give the notice shall request that the county sheriff serve the notice. The county sheriff shall serve the notice upon receipt of a request under this subsection. If the county sheriff is unable to serve the notice, the person required to give the notice shall give notice by publication in the same manner that a county officer is required to give a notice affecting the county under IC 5-3-1-4, once each week for two (2) consecutive weeks.

SECTION 2. IC 6-1.1-25-4.6, AS AMENDED BY P.L.169-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, the county executive,

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or the purchaser of the certificate of sale under IC 6-1.1-24 may;
or

(2) in a county where the county auditor and county treasurer
have an agreement under section 4.7 of this chapter, the county
auditor shall, upon the request of the purchaser or the purchaser's
assignee;

file a verified petition in the same court and under the same cause
number in which the judgment of sale was entered asking the court to
direct the county auditor to issue a tax deed if the real property is not
redeemed from the sale. Notice of the filing of this petition shall be
given to the same parties and in the same manner as provided in section
4.5 of this chapter, except that, if notice is given by publication, only
one (1) publication is required. **Except as provided in section 4.5(k)
of this chapter**, the notice required by this section is considered
sufficient if the notice is sent to the address required by section 4.5(d)
of this chapter. Any person owning or having an interest in the tract or
real property may file a written objection to the petition with the court
not later than thirty (30) days after the date the petition was filed. If a
written objection is timely filed, the court shall conduct a hearing on
the objection.

(b) Not later than sixty-one (61) days after the petition is filed under
subsection (a), the court shall enter an order directing the county
auditor (on the production of the certificate of sale and a copy of the
order) to issue to the petitioner a tax deed if the court finds that the
following conditions exist:

(1) The time of redemption has expired.

(2) The tract or real property has not been redeemed from the sale
before the expiration of the period of redemption specified in
section 4 of this chapter.

(3) Except with respect to a petition for the issuance of a tax deed
under a sale of the certificate of sale on the property under
IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and
costs have been paid.

(4) The notices required by this section and section 4.5 of this
chapter have been given.

(5) The petitioner has complied with all the provisions of law
entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in
the name of the state under the county auditor's name. If a certificate of
sale is lost before the execution of a deed, the county auditor shall issue
a replacement certificate if the county auditor is satisfied that the
original certificate existed.

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(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) the purchaser or the purchaser of the certificate of sale under IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and

(2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances

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1 created or suffered by the purchaser at the tax sale. The deed is prima
2 facie evidence of:
3 (1) the regularity of the sale of the real property described in the
4 deed;
5 (2) the regularity of all proper proceedings; and
6 (3) valid title in fee simple in the grantee of the deed.
7 (h) A tax deed issued under this section is incontestable except by
8 appeal from the order of the court directing the county auditor to issue
9 the tax deed filed not later than sixty (60) days after the date of the
10 court's order.

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